



ZFW#

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : William Steinway et al. Art Unit : 3662
Serial No. : 10/656,808 Examiner : Daniel T. Pihulic
Filed : September 8, 2003 Confirmation No.: 7090
Title : MINE DETECTION USING RADAR VIBROMETER

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO ACTION OF SEPTEMBER 20, 2005

In response to the action of September 20, 2005, applicants asks that all claims be allowed in view of the following remarks. Claims 3-17 are now pending, of which claims 5 and 13 are independent.

Claims 3-5, 7, 8, 10-13, 15 and 16 were rejected as being anticipated by U.S. Patent No. 6,914,552 (McEwan). Applicant requests reconsideration and withdrawal of this rejection because McEwan is not statutory prior art for the present application. The application was filed on September 8, 2003, and claims the benefit of prior U.S. provisional application 60/408,269, filed September 6, 2002, under 35 USC §119(e)(1). Applicant notes that September 6, 2003 fell on a Saturday. McEwan was filed on June 25, 2003. Thus, McEwan was filed after the filing date of the provisional application to which the present application claims priority. The provisional application provides support for the independent claims, for example, at page 2-3. As such, McEwan cannot constitute anticipatory prior art under 102(e) for the present application.

Claims 6, 9, 14 and 17, which each depend from one of the independent claims 5 or 13, were rejected as being unpatentable over McEwan in view of U.S. Patent No. 5,754,494 (Gallagher). Applicant requests reconsideration and withdrawal of this rejection, because as described with respect to the anticipation rejection, McEwan is not prior art to the present application.

Applicant submits that all claims are in condition for allowance.